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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

SANDRA KIRKMAN, CARLOS  
ALANIZ, individually and successors-  
in-interest to JOHN ALANIZ, deceased,

Plaintiffs,

v.

STATE OF CALIFORNIA, RAMON  
SILVA, and DOES 1-10, inclusive,

Defendants.

Case No. 2:23-cv-07532-DMG-SSC

*Honorable Dolly M. Gee  
Hon. Mag. Judge Stephanie S.  
Christensen*

**PLAINTIFFS' NOTICE OF  
MOTION AND DAUBER MOTION  
TO EXCLUDE TESTIMONY AND  
EXHIBITS OF DAVID BLAKE**

Judge: Dolly M. Gee  
Hearing: March 25, 2025  
Time: 2:00 p.m.  
Dept.: Courtroom 8C

FPTC: March 25, 2025  
Trial: April 15, 2025

**TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that on March 25, 2025, at 2:00 p.m., in Courtroom 8C of the United States District Court for the Central District of California, at 350 West 1st Street, Los Angeles, California 90012, Plaintiffs, SANDRA KIRKMAN and CARLOS ALANIZ, hereby move for an order excluding, at the trial of the above-referenced matter, any evidence, testimony, argument, or reference to the expert testimony of Defendants' Forensic Consultants Rod Englert, Nikki Wagner, and Cheryl Kanzler

**Statement of Local Rule 7-3 Compliance:** This motion is made following the meet and confer between counsel for Plaintiffs and Defendants. The Parties were unable to resolve the issues brought up in this motion.

This Motion is based on this Notice of Motion, the attached Memorandum of Points and Authorities, the records and files of this Court, and upon such other oral and documentary evidence as may be presented at the time of the hearing.

DATED: March 14, 2025

**LAW OFFICES OF DALE K. GALIPO**

By: /s/ Cooper Alison-Mayne  
Dale K. Galipo, Esq.  
Cooper Alison-Mayne  
*Attorneys for Plaintiffs*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Defendants have retained David Blake as their human factors expert. Mr.  
4 Blake is expected to testify regarding the reasonableness of Officer Silva's  
5 perception of a gun in the hands of decedent John Alaniz. However, his conclusions  
6 are unreliable, incomplete, and prejudicial. His opinions fail to meet the standards of  
7 Federal Rule of Evidence 702 and *Daubert v. Merrell Dow Pharms. Inc.*, 509 U.S.  
8 579 (1993), and should therefore be excluded.

9 **II. BLAKE'S OPINIONS ARE UNRELIABLE AND SHOULD BE**  
10 **EXCLUDED**

11 Federal Rule of Evidence 702 requires that expert testimony be both relevant  
12 and reliable. An expert's conclusions must be based on sufficient facts, reliable  
13 methodology, and properly applied principles. *Daubert*, 509 U.S. at 589. Mr.  
14 Blake's testimony fails these requirements because it omits critical eyewitness  
15 evidence, relies on incomplete data, and improperly invades the jury's role in  
16 evaluating disputed factual issues.

17 **Failure to Consider Critical Witness Testimony**

18 Blake admitted in his deposition that consideration of how other witnesses  
19 perceived events is important to his analysis of whether Officer Silva's mistake was  
20 reasonable. Declaration of Cooper Alison-Mayne, Exhibit A, Blake Deposition at  
21 50–51. However, his report omits any mention of the fact that Van Dragt, a fellow  
22 CHP officer standing next to Silva, stated that the object in Alaniz's hands looked  
23 nothing like a gun and instead resembled a Subway sandwich. Alison-Mayne Decl.,  
24 Exhibit B, Blake expert report. Additionally, Blake fails to mention in his report that  
25 two other eyewitnesses, Acosta and Emmanuel Clark, who were present at the  
26 scene, both stated that Alaniz did not have a gun or anything resembling a gun in his  
27 hands. Alison-Mayne Decl., Exhibit A, Blake Deposition at 50–51.

1  
2 This omission is a fundamental flaw in Blake’s methodology. He  
3 acknowledges that witness testimony is important but selectively ignores multiple  
4 statements from independent witnesses that contradict his conclusion. His failure to  
5 include contrary evidence demonstrates serious bias to the point that his  
6 methodology is put into question. A reliable expert must consider all relevant data,  
7 not just the portions that support a predetermined conclusion.

8 Blake’s Testimony Is Not Helpful to the Jury

9 Blake’s testimony does not provide specialized knowledge that would assist  
10 the jury in determining the facts of this case. The central issue—whether Alaniz had  
11 an object that appeared to be a gun—is a factual dispute that the jury, not an expert  
12 witness, must resolve. Assessing what is visible in a video and weighing witness  
13 credibility are core jury functions, and expert testimony should not encroach upon  
14 them.

15 This is especially true given Blake’s own admission in his deposition that he  
16 cannot see any object in Alaniz’s hands. See Alison-Mayne Decl., Exhibit A, Blake  
17 Deposition at 38. Yet, he seeks to tell the jury that the evidence supports Officer  
18 Silva’s mistaken perception.

19 Blake’s testimony does not require technical expertise. He is merely  
20 interpreting video footage and witness statements—tasks the jury is fully capable of  
21 performing without expert assistance. His selective approach, ignoring evidence that  
22 does not support his client, further undermines his credibility. Allowing him to  
23 testify would improperly elevate one party’s interpretation of the evidence and  
24 unfairly influence the jury.

25 **III. CONCLUSION**

26 Mr. Blake’s testimony fails to meet the standards of Federal Rule of Evidence  
27 702 and Daubert. His opinions are neither reliable nor relevant because they are  
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1 based on an incomplete and biased review of the evidence, omit critical eyewitness  
2 testimony, and improperly invade the jury's role in resolving factual disputes. His  
3 methodology is fundamentally flawed, as he selectively disregards contrary  
4 evidence while purporting to assess the reasonableness of Officer Silva's perception.  
5 Furthermore, Blake's testimony does not require specialized knowledge, as it  
6 consists merely of interpreting video footage and witness statements—tasks well  
7 within the jury's capability. Allowing him to testify would unfairly lend expert  
8 authority to one party's interpretation of disputed facts, creating a significant risk of  
9 undue prejudice.

10 For these reasons, the Court should exclude Mr. Blake's testimony in its  
11 entirety.

12 Respectfully submitted,

13  
14 DATED: March 14, 2025

**LAW OFFICES OF DALE K. GALIPO**

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17 By: /s/ Cooper Alison-Mayne  
18 Dale K. Galipo, Esq.  
19 Cooper Alison-Mayne  
20 *Attorneys for Plaintiffs*  
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